

(ಶ್ರೀ ಬಿ. ಡಿ. ಜತ್ತಿ)

ಹಾಕುವುದರ ಬಗ್ಗೆ ಕೆಲವು ವ್ಯತ್ಯಾಸವಾಗಿ ಕೆಳಗೂ ಮೇಲೂ ಬಿದ್ದಿರಬಹುದು. ಒಟ್ಟು ಬತ್ತದಲ್ಲಿ ಹಾಲಿ 177 ತರಹೆಯ ಬತ್ತವಿದೆ. ಅವುಗಳನ್ನೆಲ್ಲಾ 4 ತರಗತಿಗಳನ್ನಾಗಿ ವಿಂಗಡಿಸುವುದರಲ್ಲಿ ಅಕಸ್ಮಾತ್ ಏನಾದರೂ ವ್ಯತ್ಯಾಸವಾಗಿದ್ದಲ್ಲಿ ಪುನಃ ಅದನ್ನು ತಜ್ಞರಿಂದ ಪರಿಶೀಲನೆ ಮಾಡಿಸಿ ರಾಗುತ್ತದೆ. ಅದು ಏನಾ ಬೆರೆಯನ್ನೇನೂ ವ್ಯತ್ಯಾಸ ಮಾಡಿಲ್ಲ.

ಶ್ರೀ ಕೆ. ಪಿ. ರೇವಣಸಿದ್ದಪ್ಪ (ತಿಪಟೂರು).—ತಜ್ಞರೆಂದು ಯಾರು ?

ಶ್ರೀ ಬಿ. ಡಿ. ಜತ್ತಿ.—ವ್ಯವಸಾಯದ ಬಾಟಿನಲ್ಲಿ ಅಳವಾದ ಅಭ್ಯಾಸ ಮತ್ತು ಅನುಭವ ಹೊಂದಿ ಸರ್ಕಾರದಲ್ಲಿ ಕೆಲಸ ಮಾಡತಕ್ಕವರು ಎಂದು.

ಶ್ರೀ ಕೆ. ಪಿ. ರೇವಣಸಿದ್ದಪ್ಪ.—ಅದರಲ್ಲಿ ರೈತರು ಯಾರಾದರೂ ಇದ್ದಾರೆಯೇ ?

ಶ್ರೀ ಬಿ. ಡಿ. ಜತ್ತಿ.—ರೈತರಿಂದ ತಿಳಿದುಕೊಳ್ಳಬೇಕಾದ ವಿಷಯಗಳಿದ್ದರೆ ಅವರನ್ನು ಕೇಳಿ ತಿಳಿದುಕೊಳ್ಳಬಹುದು ಎಂದು ಹೇಳಿದ್ದೇನೆ.....

Message from the Council.

Announcement.

Mr. SPEAKER.—I report to the House that a message has been received from the Legislative Council that the Mysore Excise Bill, 1964 as passed by the Legislative Assembly during the current sittings and transmitted to the Legislative Council has been passed by the Legislative Council, without any amendment.

MYSORE MATERNITY BENEFIT REPEALING BILL, 1965

Motion to consider—contd.

Mr. SPEAKER.—Hon'ble Sri H. R. Keshava Murthy had raised a point of order. His point of order has been cleared. I think the Hon'ble Member is satisfied.

Sri H. R. KESHAHA MURTHY (Gandasi).—Yes. I am satisfied.

Mr. SPEAKER.—He is very much satisfied. I have clarified his point. The point of order does not arise.

Sri SIDDIAIAH KASHIMATH (Shirahatti).—Here in the statement of objects and reasons, it is stated 'certain establishments'. I want to know what are the Establishments that are going to have the maternity benefit.

Sri D. DEVARAJ URS (Minister for Transport and Tourism).—All establishments coming under the Shop Establishment, workers coming under the Factory Acts and such other establishments covered by this Bill. There is provision in the Bill to exclude any Establishment where there are already rules in existence giving benefits to the lady workers. Even if there are no rules, the State Government is empowered to make rules and apply.

†Sri ANNA RAO GANAMUKHI (Afzalpur).—According to Article 264 there are two clauses—Clauses (1) and (2). For repealing nobody

objects. Does the Act is void under Clause (1) or allow the Act amended or repealed by the provocation. Under Clause (2) there are two alternatives under the Constitution. There is no alternative to move or do anything else. If we are going to repeal the existing Act as it is in force in Mysore State, it means even after passing of the Maternity Benefit Act, this State Act is not in force. It means that. That means whatever is in force has to be repealed and if it is not in force it is void and it means no repeal at all. I don't know whether the Departments concerned have correctly exhorted the Minister to bring forward this Act or not. The Clause (2) of Article 254 reads as follows :

Article 251. (2): "Where a law made by the Legislature of a State specified in Part A or Part B of the First Schedule with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State."

In the first paragraph it is stated that law will apply for the whole of India. It stands repealed by itself. Is it necessary to bring this Bill for repealing. It is just like beating the dead horse.

Sri D. DEVARAJ URS.—I should say Article 254 is misquoted. The question is the present Maternity Benefit Act is not repugnant to the Central Act. If this Act is repugnant, then only it stands automatically repealed. Here it is not a question of repugnancy. Either we can have the Central Act or adopt the State Act, under sub-section (2) of Article 254. This Central Act extends to whole of India excepting Jammu and Kashmir. It shall come into force on such date as notified in the official gazette in the respective areas to which the Act extends. We have so far not notified, because we have to continue the present Act till this is passed. It is appropriate to have the State Act till the Central Act is adopted. We are notifying the Central Act immediately.

Mr. SPEAKER.—So, it is not repugnant. These two run parallel. It is up to the State Government to choose between the two. The State till now did not choose. The State perhaps is to exercise this. The Hon'ble Member say, by implication it is repealed. It does not.

10-00 A.M.

†**Sri ANNA RAO GANAMUKHI.**—My submission is under clause (1), whatever provisions are repugnant to the Central Act, to that extent, they become void.

Mr. SPEAKER.—Does not the Hon'ble Member think that there is scope for debate? Is he going to decide it on the Floor of the House here? If a legislation is brought I can shut it out only on the ground of its being repugnant to the constitution and therefore the time of the House should not be spent. If there is scope for least Debate, or if there is room for doubt, I cannot shut it out.

Sri ANNA RAO GANAMUKHI.—If a law which is repealed is not a law in force, why beat a dead horse and why repeal it at all? Under Section (1) this is repugnant to the Central Act and it is therefore void. My suggestion is a law which is already void cannot be repealed.

Mr. SPEAKER.—Therefore, should this Bill be thrown out?

Sri ANNA RAO GANAMUKHI.—Certainly. In the beginning itself, I urged that it is redundant, it is infructuous and it is not necessary at all, because after the passing of the Central Act, this Act stands repealed.

Mr. SPEAKER.—What action does the member suggest to the House? He is repeating the idea.

Sri ANNA RAO GANAMUKHI.—My suggestion is don't beat a horse which is already dead; the Law is no more in operation.

Mr. SPEAKER.—There is no horse and it is not dead and we are not beating. Does he suggest to vote it down? He suggests that the Speaker should throw it out!

Sri ANNA RAO GANAMUKHI.—I am coming to that.

Mr. SPEAKER.—Does the Hon'ble Member want the House to vote it down? Then I will put it to the House.

Sri ANNA RAO GANAMUKHI.—I have brought to the notice of the House. In respect of concurrent subjects, the State and the Centre are legislating and whenever there is a provision in the State Legislature repugnant to the provisions of the Central Act, then the Central Act prevails.

Mr. SPEAKER.—I cannot give time like this.

Sri ANNA RAO GANAMUKHI.—I want to throw light to the House. You are a lawyer and you caught the point.

Mr. SPEAKER.—So far as I understand, the Hon'ble Member contends that the Centre has legislated upon a subject which is in the concurrent list. In the concurrent list, subjects are open to legislation by both, that is, the Centre and the State Legislature. The State Legislature has already passed an Act. So, in the field, we have got two Acts. Now, the Government proposes that the State Legislature Act may be repealed. You are contending by the later enactment of the Central legislature, this Act stands repealed firstly by implication and secondly by repugnancy it becomes void and therefore, either the House should vote it down on that ground or the Speaker should say it cannot be dealt with by the House.

Sri ANNA RAO GANAMUKHI.—Or the Minister himself should withdraw it.

Mr. SPEAKER.—Is the Minister going to withdraw the Bill ?

Sri D. DEVARAJ URS.—No.

Mr. SPEAKER.—I am not going to call upon the Minister to say that it should not be considered. I have no power. Even if I have discretionary power, I do not propose to exercise it under the extraordinary circumstances.

† Sri D. DEVARAJ URS.—I want to clear one point. His assumptions are incorrect. There are two aspects of the case. As you have correctly pointed out, if the State Act is repugnant to the Central Act, it automatically stands cancelled. If it is in the concurrent list, the Parliament has the right to enact law for every State, but the Central Act says that it shall come into force in any State when only the State notifies. Today, simply because the Parliament has passed the enactment, it is not in force in the Mysore State unless and until the State Government notifies to that effect. Supposing while notifying it, the other Act of our State is still there, it looks awkward. So, we are repealing the present Act of ours while notifying the Central Act. I do not understand what confusion is there and why he is worried about it.

Mr. SPEAKER.—He is bound to be worried. Without worry, life is not pleasant. Life becomes pleasant when one thinks deeply. If there is repugnancy, the Hon'ble Member thinks it is void and the Hon'ble Minister thinks it is to be cancelled. If it is void, it is not for the House or for me to say so; it is for the High Court; when the matter is brought before a judicial tribunal, they will do it. I cannot say this is void nor I can say this is repugnant. The only duty left to me is to put it to the House immediately.

ಶ್ರೀ ಎಸ್. ಗೋಪಾಲ ಗೌಡ.—ನಮಗೆ ಯಾರಿಗೂ ಅರ್ಥವಾಗಲಿಲ್ಲ, ಅದರಿಂದ ನಿಮ್ಮನ್ನು ಕೇಳಬೇಕಾಯಿತು.

ಅಧ್ಯಕ್ಷರು.—ಯಾರಿಗಾದರೂ ಅರ್ಥವಾಗದೆ ಮನಸ್ಸಿನಲ್ಲಿ ಒಂದು ಸಂಶಯ ಇದ್ದರೆ ಅದರ ತೀರ್ಮಾನವನ್ನು ಇಲ್ಲಿ ಮಾಡುವುದಿಲ್ಲ. ಅವರು ಮುಖವು ಕೋರ್ಟಿನಲ್ಲಿ ನೋಡಬೇಕು. ಮಾನ್ಯ ಸದಸ್ಯರಿಗೆ ತಿಳಿಯುವುದರೆ ನನ್ನ ಹತ್ತಿರ ಮತ್ತೆ ಬಂದರೆ ಹೇಳುತ್ತೇನೆ.

The question is :

“That the Mysore Maternity Benefit Repealing Bill, 1965, be taken into consideration.”

The motion was adopted.

Mr. SPEAKER.—There are no amendments. It is purely a repealing Bill. I will put the clauses to the vote of the House.

The question is :

“That clause 2 stand part of the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

Mr. SPEAKER.—The question is :

“That Clause 1, the Title and the Preamble stand part of the Bill.”

The motion was adopted.

Clause 1, the Title and the Preamble were added to the Bill.

Motion to pass.

Sri D. DEVARAJ URS.—I beg to move :

“That the Mysore Maternity Benefit Repealing Bill, 1965, be passed.”

Mr. SPEAKER.—The question is :

“That the Mysore Maternity Benefit Repealing Bill, 1965, be passed.”

Sri ANNA RAO GANAMUKHI. Sir, finally, I must say the Minister is under a wrong notion that because the Central Act has been notified and it has not been in force in the State, it is no longer a valid law in the State. That I am going to repudiate. Though it is not in force in our State, by virtue of that we cannot say that the Central Act is not in force. As far as the State law is concerned, it is repealed by implication. It cannot be said that because the Central law has not been promulgated this law holds good for the State. It stands repealed as soon as the law was passed by the Centre.

Mr. SPEAKER.—It is preparing the way so that the other law may come into force.

Sri G. V. GOWDA (Palya).—Is it obligatory on the part of the State Legislature to adopt it by means of notification or could we not choose to have our own law if it is beneficial?

Mr. SPEAKER.—How does it arise in the third reading.

Sri G. V. GOWDA.—We have enacted that particular law in 1959 taking into consideration the existing conditions in this State.

Mr. SPEAKER.—Now it is for the Government to say that we repeal that. The House may accept or reject.

Sri D. DEVARAJ URS.—Commonsense dictates that it is more beneficial to adopt. I request the House.

Mr. SPEAKER.—I will put it again to the vote of the House. The question is :

“That the Mysore Maternity Benefit Repealing Bill, 1965, be passed.”

The motion was adopted.